

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DOLORES VALENZUELA, et al.,
Plaintiffs,
v.
BEST-LINE SHADES, INC., et al.,
Defendants.

Case No. 19-cv-07293-JSC

**ORDER TO SHOW CAUSE RE:
DEFENDANTS' DEFAULT**

Re: Dkt. No. 63

Plaintiffs Dolores Valenzuela, Adela Flores, and Raymunda Menjivar filed this wage and hour class and collective action against their former employer Best-Line Shades, Inc., Best-Line, Inc., and its owner and president Jill Schaffer seeking to recover unpaid wages and penalties under the Fair Labor Standards Act (FLSA) and California labor laws. On August 10, 2021, the Court granted Plaintiffs' motion for certification of a class and collective action under Federal Rule of Civil Procedure 23(b)(3) and FLSA, Section § 216(b). (Dkt. No. 53.) The Court subsequently granted Plaintiffs' motion to compel Defendants to provide a copy of the class list so that class notice could be provided. (Dkt. No. 60.) Defendants failed to comply with that order and Defense counsel subsequently moved to withdraw from representation of (1) the Best-Line entities because they no longer exist as legal entities, and (2) Ms. Schaffer because she repeatedly failed to maintain communication with counsel and ceased paying her legal fees in breach of their written representation agreement. (Dkt. No. 61.)

On December 2, 2021, the Court granted counsel's motion to withdraw and ordered Defendants to obtain new counsel within 30 days. (Dkt. No. 63.) Ms. Schaffer was given the option to enter an appearance pro se, but the Best-Line entities were advised that they had to retain counsel based on "the longstanding rule that [c]orporations and other unincorporated associations

1 must appear in court through an attorney.” (Dkt. No. 63 at 3 (quoting *D-Beam Ltd. P’ship v.*
 2 *Roller Derby Skates, Inc.*, 366 F.3d 972, 973–74 (9th Cir. 2004) (internal citations omitted)); *see*
 3 *also* Civ. L.R. 3-9(b).) More than 30 days have passed, and no counsel has entered an appearance
 4 for either the Best-Line entities or Ms. Schaffer nor has Ms. Schaffer entered an appearance pro se
 5 or otherwise communicated with the Court. Plaintiffs have thus moved for Defendants’ default
 6 (Dkt. No. 65.)

7 Defendants are ORDERED TO SHOW CAUSE as to why the Court should not enter their
 8 default based on their failure to comply with the Court’s Order to produce a class list, failure to
 9 participate in this action, and failure to enter an appearance either pro se or through counsel in the
 10 case of Ms. Schaffer or through counsel in the case of the Best-Line entities. “[D]efault [i]s a
 11 permissible sanction for failure to comply with local rules requiring representation by counsel.”
 12 *See Emp. Painters’ Tr. v. Ethan Enterprises, Inc.*, 480 F.3d 993, 998 (9th Cir. 2007) (internal
 13 citation omitted). Likewise, “[u]nder Federal Rule of Civil Procedure 37(b), a district court may
 14 impose sanctions, including default, for failing to comply with a court order.” *Dreith v. Nu Image,*
 15 *Inc.*, 648 F.3d 779, 786 (9th Cir. 2011). Here, Defendants failed to comply with the Court’s Order
 16 to produce the class list. Ms. Shaffer has also failed to comply with the Court’s order that she
 17 enter an appearance pro se or through counsel following the withdrawal of counsel. The Best-Line
 18 entities have also failed to comply with the Court’s order to obtain counsel and are in violation of
 19 Local Rule 3-9(b).

20 Defendants shall file a written response to this Order by February 15, 2022. Any written
 21 response to this Order must be accompanied by an appearance by counsel for the Best-Line
 22 entities and either an appearance of counsel or appearance pro se for Ms. Schaffer. Failure to
 23 comply with this Order may result in entry of Defendants’ default without further warning.

24 Defendants’ prior counsel, Leiann Laiks, of the law firm of Fusion Legal, PC, must
 25 provide Defendants notice of this Order and shall file proof of service of the same within three
 26 days of this Order. *See* N.D. Cal. Civ. L.R. 11-5(b). (Dkt. No. 63.)

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United States District Court
Northern District of California

IT IS SO ORDERED.

Dated: January 25, 2022


JACQUELINE SCOTT CORLEY
United States Magistrate Judge